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असाधारण

EXTRAORDINARY

भाग II--खण्ड 3--उपखण्ड (i)

PART II—Section 3—Sub-Section (i)

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 6th July, 1968

G.S.R. 1273.—In exercise of the powers conferred by section 87 of the Punjab Reorganisation Act, 1966 (31 of 1966), the Central Government hereby extends to the Union territory of Chandigarh, the Punjab General Sales Tax (Amendment and Validation) Act, 1967 (Punjab Act No. 7 of 1967), as at present in force in the State of Punjab, subject to the following modifications, namely:—

Modifications

1. Throughout the Punjab General Sales Tax (Amendment and Validation) Act, 1967 (hereinafter referred to as the Act),—

- (a) for the words, brackets and figures "before the commencement of the Punjab General Sales Tax (Amendment and Validation) Act, 1967", the words, brackets and figures "before the extension of the Punjab General Sales Tax (Amendment and Validation) Act, 1967 to the Union territory of Chandigarh"; and
- (b) for the words, brackets and figures "as amended by the Punjab General Sales Tax (Amendment and Validation) Act, 1967", the words, brackets and figures "as amended by the Punjab General Sales Tax (Amendment and Validation) Act, 1967, as extended to the Union territory of Chandigarh",

shall be substituted.

2. In section 2 of the Act, for the words, figures and brackets "the Punjab General Sales Tax Act, 1948 (hereinafter referred to as the principal Act)", the

words, figures and brackets "the Punjab General Sales Tax Act, 1948 as in force in the Union territory of Chandigarh (hereinafter referred to as the principal Act)", shall be substituted.

3. In the section which is directed, by section 4 of the Act, to be inserted as section 3A in the principal Act,—

(a) in sub-section (3), for clause (b), the following clause shall be substituted, namely:—

"(b) he is a serving or a retired member of the Indian Administrative Service who is or had been serving in connection with the administration of the Union territory of Chandigarh and had put in not less than seven years in the Indian Administrative Service;"

(b) sub-section (15) shall be omitted.

4. In section 5 of the Act, for sub-clause (ii) of clause (a), the following sub-clause shall be substituted, namely:—

"(ii) after the second proviso, the following proviso shall be inserted, namely:—

"Provided further that with effect from the date of extension of the Punjab General Sales Tax (Amendment and Validation) Act, 1967 to the Union territory of Chandigarh, the rate of tax shall not exceed three paise in a rupee in respect of any declared goods:""

5. In the section which is directed, by section 14 of the Act, to be inserted in the principal Act as section 21B, in sub-section (3), for the words "such commencement", wherever they occur, the words "such extension" shall be substituted.

6. In section 22 of the Act, for clause (ii), the following clause shall be substituted, namely:—

"(ii) occurred on or after the first day of October, 1958, and before the date of extension of this Act to the Union territory of Chandigarh."

7. Section 23 of the Act shall be omitted.

ANNEXURE

THE PUNJAB GENERAL SALES TAX (AMENDMENT AND VALIDATION) ACT, 1967 AS EXTENDED TO THE UNION TERRITORY OF CHANDIGARH PUNJAB ACT NO. 7 OF 1967

An Act to amend the Punjab General Sales Tax Act, 1948.

BE it enacted by the Legislature of the State of Punjab in the Eighteenth Year of the Republic of India as follows:—

1. **Short title.**—This Act may be called the Punjab General Sales Tax (Amendment and Validation) Act, 1967.

2. **Amendment of section 2 of Punjab Act 46 of 1948.**—In section 2 of the Punjab General Sales Tax Act, 1948, as in force in the Union territory of Chandigarh, (hereinafter referred to as the principal Act),—

(i) after clause (d), the following clause shall be inserted, namely:—

"(dd) 'declared goods' means goods declared under section 14 of the Central Sales Tax Act, 1956, to be of special importance in inter-State trade or commerce;"

(ii) after clause (h), the following clause shall be inserted, namely:—

"(hh) 'Tribunal' means the Tribunal constituted under section 3-A;"

3. **Amendment of section 3 of Punjab Act 46 of 1948.**—In sub-section (3) of section 3 of the principal Act, for the words "shall be deemed", the words "and the Presiding Officer of the Tribunal shall be deemed" shall be substituted.

4. Insertion of new sections 3-A, 3-B and 3-C in Punjab Act 46 of 1948.—After section 3 of the principal Act, the following sections shall be inserted, namely:—

- "3-A. Constitution of Tribunal.—**(1) The State Government shall, by notification in the *Official Gazette*, constitute one or more Tribunals, as the State Government may deem fit, to exercise the functions conferred by this Act.
- (2) A Tribunal shall consist of one person only to be appointed by the State Government.
- (3) A person shall not be qualified for appointment as a Presiding Officer of a Tribunal, unless—
- (a) he is a serving or a retired Judge of the High Court, or
- (b) he is a serving or a retired member of the Indian Administrative Service who is or had been serving in connection with the Administration of the Union territory of Chandigarh and had put in not less than seven years in the Indian Administrative Service.
- (4) No person shall be appointed or continue as a Presiding Officer of a Tribunal, if he has attained the age of sixty-five years.
- (5) Subject to the provisions of sub-section (4), the term of office of the Presiding Officer of a Tribunal shall be three years and he shall not be eligible for re-appointment.
- (6) The Presiding Officer of a Tribunal shall be entitled to such salaries and allowances and shall be governed by such conditions of service as may be prescribed.
- (7) The Presiding Officer of a Tribunal may be removed from the office by the State Government, if—
- (a) he is adjudged an insolvent; or
- (b) he takes up employment outside the duties of his office; or
- (c) in the opinion of the State Government,—
- (i) he has become incapable of acting on account of unsoundness of mind or any other reason; or
- (ii) he is guilty of such misconduct as would render him unfit to continue as Presiding Officer; or
- (d) he is convicted of an offence involving moral turpitude.
- (8) The Presiding Officer of a Tribunal may, at any time by writing under his hand addressed to the State Government resign his office, but his resignation shall take effect from the date on which it is accepted.
- (9) A vacancy in the office of the Presiding Officer of a Tribunal shall be filled by the State Government as soon as practicable in accordance with the provisions of the Act and the proceedings before a Tribunal may be continued from the stage at which the vacancy is filled.
- (10) No order made and no act done or proceedings taken under this Act by or before a Tribunal shall be called in question in any manner on the ground merely of any defect in the constitution of the Tribunal.
- (11) Subject to such conditions and limitations as may be prescribed, a Tribunal shall have power to award costs, and the amount of such costs shall be recoverable from the person ordered to pay the same as arrears of land revenue.
- (12) Subject to any rules that may be made in this behalf, a Tribunal shall follow such procedure as it may deem fit.

- (13) A Tribunal shall, subject to any direction given by the State Government, sit at such place or places within its jurisdiction as it may deem fit.
- (14) The State Government may appoint such officers and servants as may be required to enable a Tribunal to carry out its functions under the Act.
- (15) (Omitted.)

3-B. Jurisdiction of Tribunals in case there are more Tribunals than one.—In the event of the State Government constituting more Tribunals than one, the State Government shall, by notification, define the local limits of jurisdiction of each Tribunal and where an appeal, application or revision pending before a Tribunal relates to the local limits of an area which, as a result of the issue of such a notification, has fallen within the jurisdiction of another Tribunal, such appeal, application or revision shall stand transferred to and be heard and decided by the other Tribunal.

3-C. Dissolution of Tribunal.—Notwithstanding anything contained in sub-section (5) of section 3-A, where there are more Tribunals than one, the State Government may, at any time by reason of insufficiency of work pending before the Tribunals, dissolve any Tribunal and no Presiding Officer of the Tribunal affected by such dissolution shall have any claim against the State Government."

5. Amendment of section 5 of Punjab Act 46 of 1948.—In section 5 of the principal Act,—

(a) in sub-section (1),—

(i) in the second proviso, the words, brackets, letter and figures "as defined in clause (c) of section 2 of the Central Sales Tax Act, 1956, and such tax shall not be levied on the purchase or sale of such goods at more than one stage" shall be omitted;

(ii) after the second proviso, the following proviso shall be inserted, namely:—

"Provided further that with effect from the date of extension of the Punjab General Sales Tax (Amendment and Validation) Act, 1967 to the Union territory of Chandigarh the rate of tax shall not exceed three paise in a rupee in respect of any declared goods:";

(b) in sub-section (1A), for the words "in respect of such goods", the words "in respect of such goods other than declared goods" shall be substituted and be deemed to have been substituted with effect from the 16th day of December, 1965;

(c) after sub-section (2), the following sub-section shall be inserted with effect from the 1st day of October, 1958, namely:—

"(3) Notwithstanding anything contained in this Act, at one stage and that stage shall be—

(a) in respect of declared goods, tax shall be levied—

(i) in the case of goods liable to sales tax, the stage of sale of such goods by the last dealer liable to pay tax under this Act;

(ii) in the case of goods liable to purchase tax, the stage of purchase of such goods by the last dealer liable to pay tax under this Act;

(b) the taxable turnover of any dealer for any period shall not include his turnover during that period on any sale or purchase of declared goods at any stage other than the stage referred to in sub-clause (i), or as the case may be, sub-clause (ii) of clause (a)."

6. Amendment of sections 5, 6 and 31 of Punjab Act 46 of 1948.—In the first proviso to sub-section (1) of section 5, in sub-section (2) of section 6 and in

section 31 of the principal Act, for the words "three months" wherever occurring, the words "twenty days" shall be substituted.

7. Amendment of section 7 of Punjab Act 46 of 1948.—In sub-section (5) of section 7 of the principal Act, for the words and figures "has been convicted or has paid composition money under section 24", the words and figures "has paid the amount of penalty imposed under section 23" shall be substituted.

8. Amendment of section 11 of Punjab Act 46 of 1948.—In sub-section (9) of section 11 of the principal Act, for the words "prosecution instituted for an offence", the words "penalty imposed" shall be substituted.

9. Insertion of section 11AA in Punjab Act 46 of 1948.—After section 11A of the Principal Act, the following section shall be inserted, namely:—

"11AA. Review of certain assessments, etc., of tax on declared goods.—

(1) Notwithstanding anything contained in this Act, the Assessing Authority shall (whether or not an application is made to him in this behalf), review all assessments and re-assessments made before the extension of the Punjab General Sales Tax (Amendment and Validation) Act, 1967 to the Union territory of Chandigarh, in respect of declared goods and make such order varying or revising the order previously made as may be necessary for bringing the order previously made into conformity with the provisions of this Act as amended by the Punjab General Sales Tax (Amendment and Validation) Act, 1967, as extended to the Union territory of Chandigarh:

Provided that no proceeding for review shall be initiated without giving the dealer concerned a notice in writing of not less than thirty days.

(2) Any dealer on whom a notice is served under sub-section (1) may within thirty days from the date of receipt of such notice intimate in writing the assessing authority of his intention to abide by the assessment or re-assessment sought to be reviewed and if he does so, the assessing authority shall not review such assessment or re-assessment under this section.

(3) No order shall be made under this section against any dealer without giving dealer a reasonable opportunity of being heard.

(4) Notwithstanding anything contained in any judgment, decree or order of any court or other authority to the contrary but subject to the provisions of the foregoing sub-sections any assessment, re-assessment, levy or collection of any tax in respect of declared goods made or purporting to have been made, and any action or thing taken or done or purporting to have been taken or done in relation to such assessment, re-assessment, levy or collection, under the provisions of this Act before the extension of the Punjab General Sales Tax (Amendment and Validation) Act, 1967 to the Union territory of Chandigarh, shall be as valid and effective as if such assessment, re-assessment, levy or collection or action or thing had been made, taken or done under this Act as amended by the Punjab General Sales Tax (Amendment and Validation) Act, 1967, as extended to the Union territory of Chandigarh."

10. Amendment of section 14-A of Punjab Act 46 of 1948.—For sub-section (5) of section 14-A of the principal Act, the following sub-section shall be substituted, namely:—

"(5) Any person against whom any direction is made under this section may appeal to the Tribunal against such direction under and in accordance with the provisions of section 20."

11. Substitution of section 19 of Punjab Act 46 of 1948.—For section 19 of the principal Act, the following section shall be substituted, namely:—

"19. Bar of certain proceedings.—No assessment made and no order passed under this Act or the rules made thereunder shall be called into question in any Civil Court."

12. Substitution of section 20 of Punjab Act 46 of 1948.—For section 20 of the principal Act, the following section shall be substituted, namely:—

"20. Appeals.—(1) An appeal from every original order passed under this Act or the rules made thereunder shall lie,—

- (a) if the order is made by an Assessing Authority, to the Deputy Excise and Taxation Commissioner;
 - (b) if the order is made by the Deputy Excise and Taxation Commissioner, to the Commissioner;
 - (c) if the order is made by the Commissioner or any officer exercising the powers of the Commissioner, to a Tribunal.
- (2) An order passed in appeal by a Deputy Excise and Taxation Commissioner or by the Commissioner or by any officer on whom the powers of the Commissioner are conferred shall be further appealable to a Tribunal.
- (3) Every order of a Tribunal and subject only to such order, the order of the Commissioner or any officer exercising the powers of the Commissioner or the order of the Deputy Excise and Taxation Commissioner or of the assessing authority if it was not challenged in appeal or revision shall be final.
- (4) No appeal shall be entertained unless it is filed within sixty days from the date of communication of the order appealed against or such longer period as the appellate authority may allow, for reasons to be recorded in writing.
- (5) No appeal shall be entertained by an appellate authority unless such appeal is accompanied by satisfactory proof of the payment of the tax or of the penalty, if any, imposed or of both as the case may be:
- Provided that if such authority is satisfied that the dealer is unable to pay the tax assessed or the penalty, if any, imposed or both, he may, for reasons to be recorded in writing, entertain an appeal without the tax or penalty or both having been paid or after part payment of such tax or penalty or both.
- (6) Subject to such rules of procedure as may be prescribed, an appellate authority may pass such order on appeal as it deems to be just and proper."

13. **Substitution of section 21 of Punjab Act 46 of 1948.**—For section 21 of the principal Act, the following section shall be substituted, namely:—

- "21. *Revision.*—(1) The Commissioner may of his own motion call for the record of any proceedings which are pending before, or have been disposed of by, any authority subordinate to him, for the purpose of satisfying himself as to the legality or propriety of such proceedings or order made therein and may pass such order in relation thereto as he may think fit.
- (2) The State Government may by notification confer on any officer powers of the Commissioner under sub-section (1) to be exercised subject to such conditions and in respect of such areas as may be specified in the notification.
- (3) A Tribunal, on application made to it against an order of the Commissioner under sub-section (1) within ninety days from the date of communication of the order, may call for and examine the record of any such case and pass such orders thereon as it thinks just and proper.
- (4) No order shall be passed under this section which adversely affects any person unless such person has been given a reasonable opportunity of being heard."

14. **Insertion of new sections 21-A and 21-B in Punjab Act 46 of 1948.**—After section 21 of the principal Act, the following sections shall be inserted, namely:—

- "21-A. *Rectification of mistakes.*—(1) The Commissioner or the officer on whom the powers of the Commissioner under sub-section (1) of section 21 have been conferred by the State Government may, at any time within two years from the date of any order passed by him, of his own motion rectify any mistake apparent from the record, and shall within a like period rectify any such mistake which has been brought to his notice by any person affected by such order:

Provided that no such rectification shall be made if it has the effect of enhancing the tax or reducing the amount of refund, unless the Commissioner or the officer on whom powers of the Commissioner under

sub-section (1) of section 21 have been conferred by the State Government has given notice in writing to such person of his intention to do so and has allowed such person a reasonable opportunity of being heard.

- (2) The provisions of sub-section (1) shall apply to the rectification of a mistake by a Tribunal as they apply to the rectification of a mistake by the Commissioner.
- (3) Where any such rectification has the effect of reducing the amount of the tax or penalty the Commissioner shall in the prescribed manner order the refund of the amount so due to such person.
- (4) Where any such rectification has the effect of enhancing the amount of tax or penalty or reducing the amount of refund, the Commissioner shall order the recovery of the amount due from such person in the manner provided for in sections 11 and 11-B.

21-B. Disposal of pending appeals and applications, etc.—(1) Any appeal or application under sub-section (1) of section 22 pending immediately before the extension of the Punjab General Sales Tax (Amendment and Validation) Act, 1967 to the Union territory of Chandigarh, before the Financial Commissioner shall stand transferred to the Tribunal constituted under section 3-A.

(2) Any application for revision pending immediately before the extension of the Punjab General Sales Tax (Amendment and Validation) Act, 1967 to the Union territory of Chandigarh, before the Financial Commissioner, the Commissioner or an officer on whom the powers of the Commissioner are conferred shall stand transferred to the Tribunal and shall be disposed of by it as if it were an appeal made to the Tribunal under and in accordance with the provisions of section 20.

(3) Subject to the provisions of section 20 and sub-sections (1) and (2), if a person is aggrieved by any order passed by any officer or authority before the extension of the Punjab General Sales Tax (Amendment and Validation) Act, 1967 to the Union territory of Chandigarh, from which an appeal under sub-section (5) of section 14-A or a revision under section 21 or an application under sub-section (1) of section 22 was competent but was not filed and if the period of limitation prescribed therefor had not expired immediately before such extension he may file an appeal or revision, as the case may be, to the Tribunal against such order within the unexpired period or within thirty days next after such extension whichever period expires later.”.

15. Amendment of section 22 of Punjab Act 46 of 1948.—In section 22 of the principal Act,—

- (a) in sub-section (1), for the word and figures “section 21”, the words and figures “section 20 or 21” shall be substituted; and
- (b) for the words “Financial Commissioner”, wherever occurring, the word “Tribunal” shall be substituted.

16. Amendment of section 22-A of Punjab Act 46 of 1948.—In section 22-A of the principal Act, for the word “Commissioner”, wherever occurring, the words “Tribunal or the Commissioner” shall be substituted.

17. Amendment of section 23 of Punjab Act 46 of 1948.—In section 23 of the principal Act, sub-sections (3), (4) and (5) shall be omitted.

18. Amendment of section 27 of Punjab Act 46 of 1948.—In section 27 of the principal Act,—

(1) in sub-section (2),—

(i) the following clauses (a) and (aa) shall be inserted, namely:—

“(a) the salaries, allowances and other conditions of service of the Presiding Officer of a Tribunal;

- (aa) the conditions and limitations subject to which a Tribunal shall award costs under sub-section (11) of section 3-A;";
- (ii) in clause (o), the words "against assessment" shall be omitted; and
- (2) sub-section (3) shall be omitted.

19. Amendment of Schedule 'C' of Punjab Act 46 of 1948.—In item (3) of Schedule 'C' appended to the principal Act, between the words 'Oilseeds' and 'that is to say' the words "including groundnuts" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1960.

20. Validation of assessments etc. in the case of groundnuts.—(1) Notwithstanding anything contained in any judgment, decree or order of any court or other authority to the contrary, any assessment, re-assessment, levy or collection of any tax on the purchase of groundnuts made or purported to have been made, any action or thing taken or done in relation to such assessment, re-assessment, levy or collection under the provisions of the principal Act before the extension of the Punjab General Sales Tax (Amendment and Validation) Act, 1967 to the Union territory of Chandigarh, shall be deemed to be as valid and effective as if such assessment, re-assessment, levy or collection or action or thing had been made, taken or done under the principal Act as amended by the Punjab General Sales Tax (Amendment and Validation) Act, 1967, as extended to the Union territory of Chandigarh, and accordingly—

- (a) all acts, proceedings or things done or action taken by the State Government or by any other officer of the State Government or by any other authority in connection with the assessment, re-assessment, levy or collection of such tax shall, for all purposes, be deemed to be and to have always been done or taken in accordance with law;
 - (b) no suit or other proceedings shall be maintained or continued in any court or before any authority for the refund of any such tax; and
 - (c) no court shall enforce any decree or order directing the refund of any such tax.
- (2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing any person—
- (a) from questioning in accordance with the provisions of the principal Act and rules made thereunder, the assessment, re-assessment, levy or collection of such tax for any period, or
 - (b) from claiming refund of any tax paid by him in excess of the amount due from him under the principal Act as amended by the Punjab General Sales Tax (Amendment and Validation) Act, 1967, as extended to the Union territory of Chandigarh.

21. Rate of tax on goods specified in Schedule C during the period from 1st April, 1960 to 6th October, 1961, and validation of certain assessments.—(1) During the period commencing from the 1st day of April, 1960 and ending on the 6th day of October, 1961, the rate of tax under sub-section (1) of section 5 of the principal Act, on the purchase of goods specified in Schedule C appended to that Act shall be deemed to be and to have always been two Naye Paise in a rupee.

(2) Any tax levied, assessed or collected in respect of purchase [during the period referred to in sub-section (1)] of the goods specified in Schedule C to the principal Act at the rate specified in the said sub-section shall be deemed to be and to have always been as validly and effectively levied, assessed or collected as if sub-section (1) had been in force at all relevant times and accordingly notwithstanding anything contained in any judgment, decree or order of any court or other authority to the contrary, all acts, proceedings or things done or taken by any authority under the principal Act in connection with such levy, assessment or collection shall, for all purposes, be deemed to be and to have always been done or taken in accordance with the principal Act read with sub-section (1) and—

- (a) no suit or other proceeding shall be maintained or continued in any court or before any authority for the refund of any tax so collected on the ground only that the rate of tax had not been prescribed in accordance with law; and

- (b) no court shall enforce any decree or order directing the refund of any tax so collected on the ground mentioned in clause (a).

22. Certain contraventions not to be offences.—Notwithstanding the retrospective operation of the amendments to the principal Act made by this Act, no contravention of, or no failure to comply with, any of the provisions of the principal Act, as amended by this Act, shall render any person guilty of an offence, if such contravention or failure—

- (i) relates either to any provision inserted in the principal Act by this Act or to any existing provision as amended by this Act; and

- (ii) occurred on or after the first day of October, 1958, and before the date of extension of this Act to the Union territory of Chandigarh.

23. [Omitted].

[No. F.15/2/68-UTL(1)-104.]

K. R. PRABHU, Jt. Secy.

